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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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9 **WILLIAM DAVID BUSH,**

10 Plaintiff,

11 vs.

12 **ROCHELLE WALENSKY, ET AL.,**

13 Defendants.
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CASE No.: 21-cv-05825-YGR

**ORDER RE: NINTH CIRCUIT REFERRAL
NOTICE**

Re: Dkt. No. 13

15 On October 25, 2021, the Court issued its Order which, as relevant here, adopted the
16 Magistrate Judge’s report and recommendation dismissing plaintiff’s complaint for failure to state a
17 claim. (Dkt. Nos. 6, 10.) On November 1, 2021, plaintiff filed a Notice of Appeal from the Court’s
18 October 25, 2021 Order. (Dkt. No. 11.) On November 5, 2021, the Ninth Circuit referred the
19 matter to this Court for determination of whether plaintiff’s *in forma pauperis* (“IFP”) status should
20 continue for this appeal. (Dkt. No. 13.)

21 This Court determines that it should not. There are no valid grounds on which an appeal
22 can be based. Consequently, the Court certifies that any appeal taken from the order of dismissal
23 and judgment of this action will not be taken in good faith and is therefore frivolous. Fed. R. App.
24 P. (“FRAP”) 24(a)(3)(A); *Ellis v. United States*, 356 U.S. 674, 674–75 (1958); *Hooker v. Am.*
25 *Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). Accordingly, plaintiff’s IFP status is **REVOKED**.

26 The Clerk shall forthwith notify plaintiff and the Court of Appeals of this Order. *See* FRAP
27 24(a)(4). Plaintiff may file a motion for leave to proceed IFP on appeal in the Ninth Circuit within
28 **thirty (30) days** after service of notice of this Order. *See* FRAP 24(a)(5). Any such motion “must

1 include a copy of the affidavit filed in the district court and the district court's statement of reasons
2 for its action." *Id.*

3 **IT IS SO ORDERED.**

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5 Dated: November 5, 2021

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7 YVONNE GONZALEZ ROGERS
8 UNITED STATES DISTRICT COURT JUDGE
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United States District Court
Northern District of California